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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,757	10/24/2003	Peter Zuk JR.		1970

7590

09/20/2006

Peter Zuk Jr.
258 Old Littleton Rd.
Harvard, MA 01451

EXAMINER

KIM, SUN U

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,757

Applicant(s)

ZUK, PETER

Examiner

John Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2006 and 24 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-16 and 18-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-11 is/are allowed.
- 6) ☒ Claim(s) 12-14, 16, 18 and 20-25 is/are rejected.
- 7) ☒ Claim(s) 15 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. This office action is in response to the responses filed 3/21/06 and 7/24/06.
2. The disclosure is objected to because of the following informalities: On line 1 of the specification after the title, application no. 09/818,108 filed on 03/27/01 needs to be updated to show that above application has been issued as US Pat. No. 6,660,171.

Appropriate correction is required.

3. Claims 12, 20 and 25 are objected to because of the following informalities: “of” after “said” on lines 11 and 20 of claim 12 and on lines 14 and 23 of claim 20 should be deleted. After “said outlet” on line 45 of claim 25, “port” should be added. Appropriate correction is required.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 12-14, 16, 18, 20 and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Naoi et al (US Pat. No. 4,963,260). Naoi et al teach a method of using a blood filter comprising a partition wall (106) dividing a body into first and second filter wells with filter media (150, 126a) sealed to the partition wall (106) and having first and second chamber between inner side of filter media (150, 126a) and each side of the partition wall (106), a cross port (112) located entirely outside the filter wells, front and back cover (104a, 104b) sealed with the body to create third and fourth chambers in fluid communication with the cross port (112), a first port (120) in fluid communication with the cross port (112) and a second port (116) in fluid communication with the first and second chambers wherein blood flows through the second port (116) through first and second chambers, filtration media (150, 126a), the cross port (112) and

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the first port (120) and wherein filter media (150, 126a) are compression fitted between the outer edge of the filter media and a sidewall of filter wells as shown in figures 6 and 8 (see figures 5-8; col. 6, line 17 – col. 8, line 3).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Naoi et al. Naoi et al teach a blood filter and method of using the blood filter as described in above paragraph 5. Claim 21 essentially differs from the method of Naoi et al in reciting the first port being an inlet port and the second port being an outlet port. It would have been obvious to one having ordinary skill in the art at the time the invention was made to reverse the first port as an inlet port and the second port as an outlet port, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. In re Einstein, 8 USPQ 167.

8. Claims 15 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 6-11 are allowed.

10. The following is a statement of reasons for the indication of allowable subject matter:

Naoi et al is considered the closest prior art to the claimed invention of claim 6. Naoi et al teaches a blood filter as described in above paragraph 5; however, Naoi et al does neither teach nor suggests a partition wall containing a through slot, with the through slot being in fluid

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communication with the first chamber, and in fluid communication with the second chamber, an first port leading outside of the device in fluid flow communication with the through slot, a second port leading outside of the device in fluid communication with the third chamber and a third port leading outside of the device in fluid communication with the fourth chamber of the claimed filter.

11. The terminal disclaimer filed on 3/21/06 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No.

6,660,171 has been reviewed and is accepted. The terminal disclaimer has been recorded.


12. Applicant's arguments with respect to claims 6-16 and 18-25 have been considered but are moot in view of the new ground of rejection.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kim whose telephone number is 571-272-1142. The examiner can normally be reached on Monday-Friday 7 a.m. - 3:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on 571-272-1142. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


John Kim
Primary Examiner
Art Unit 1723

JK
September 15, 2006